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# Written statement* submitted by the Asian Legal Resource Centre, a non-governmental organization in general consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[25 May 2015]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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# Pakistan: Rights Safeguards Rendered Meaningless in the face of Extrajudicial Killings

1. The Asian Legal Resource Centre is extremely concerned about the continuing extrajudicial killings in Pakistan, and the impunity with which they are committed. Instead of using legal and constitutional methods to stop such practices of the law enforcement agencies, the government of Pakistan has sought to make extrajudicial killings legal and constitutional.

2. The law enforcement agencies (LEAs), particularly the military and its intelligence agencies, have been given the power to shoot suspects on sight and to try them in military courts via the passage of recent ordinances, laws, and amendments to the Constitution. The LEAs are free to kill any person on the pretext of terrorism or encounters, with complete impunity. The decision of culpability solely vests on the whims of the LEAs. Every agency is pushing to show its competency and efficiency, which is resulting in extrajudicial killings on a daily basis. The police and the paramilitary Pakistan Rangers, in particular, have become judge, jury, and executioners all rolled in one.

3. The Judiciary and fair trial have been utterly undermined and constantly ridiculed; the LEA's, particularly the police, are always making complaints against the Judiciary for letting off suspects the police have apprehend after extensive "investigation". The judicial response to such allegations is that investigations are often faulty and the prosecution fails to prove the case beyond reasonable doubt. LEA's have, in turn, been campaigning strongly against fair trial and due process in the quest for absolute power.

4. Blatant misuse of power by the LEAs has reached such a point that peace campaigners are not spared. Ms. Sabeen Mahmud, a peace activist and intellectual in Karachi City, was shot dead by unknown assailants on 25 April 2015 when she and her mother were returning from a talk held on the subject of Balochistan. She had been receiving threatening phone calls from the secret agencies not to hold an open talk on Balochistan, where hundreds of civilians have been disappeared and extrajudicially killed by the military and its intelligence agencies. The superior courts have held state agencies responsible for disappearances and extrajudicial executions in Balochistan, however, no officers have so far been tried or punished. The government has become so sensitive on open discussion on the subject of Balochistan, it had stopped a talk of Baloch leaders at a Lahore university, just 14 days before Sabeen's murder.

5. Extrajudicial killings have increased manifold since the start of an operation in the metropolis of Karachi against target killings. The Pakistan Rangers, the LEA heading the operation, in the first three months of 2015, killed at least 157 persons. During the year 2014, according to newspaper reports, 692 persons were killed extrajudicially in different parts of the Karachi. According to statistics collected by the Human Rights Commission of Pakistan (HRCP), 457 persons have been killed in police encounters and 135 killed by the law enforcement agencies. These are only the documented cases and actual figures where the state atrocities are unknown. Without a check and balance system there is complete impunity, and there is no redressal for the victim from the institutions of justice.

6. Take the case of Mr. Tariq Mehboob, the Deputy General Secretary of Sunni Ittehad Council, the united front of different politico-religious parties. On 18 April 2015, the dead body of Mr. Tariq Mehboob was found in Karachi. From 11 to 17 April 2015, the Pakistan Rangers kept him in illegal detention. On April 17, he was produced before the Anti Terrorist Court (ATC), which remanded him to Rangers' custody for 90 days, under the Pakistan Protection Act (PPA). Tariq was tortured in a most vicious manner while in custody, where he allegedly died of heart attack, following which his body was dumped at the Jinnah Hospital mortuary. His knees were found to have been drilled into and his body bore many marks of severe torture.

7. On 10 January 2015, 24-year-old Syed Faraz Alam was severely beaten and tortured to death by Khokhrapar Police Station in Karachi. He was arrested on suspicion of being involved in target killings. He was taken to Korangi Industrial Area Police Station, Karachi, where he was made to suffer inhuman torture. His dead body was shifted to Jinnah Postgraduate Medical Centre, a state run hospital, where, upon postmortem, it was revealed that Faraz had sustained electrical shots on his genitals and his anus; he also had torture marks on both his legs. Faraz was a member of Muttaida Qaumi Movement, a political party with a stronghold in Karachi.

8. Similar is the case of Sohail Ahmed, a senior member of Muttaida Qaumi Movement. On 28 January 2015, the mutilated and tortured body of Sohail Ahmad was found dumped in an isolated part of Karachi. His body bore two gunshot wounds in the head and the neck. Sohail had been missing for more than a month and his family had lodged an FIR for his disappearance; it is stated in the report that he was picked up by unidentified persons from an area near his home.

9. Disappearances and extrajudicial killings across the Sindh Province continue without relent; in many cases disappearances have occurred following arrest by the police and or by persons in civilian clothes, presumed to be members of the intelligence agencies. Thereafter, while in custody, the detainees are tortured and ultimately their bodies are found dumped on the streets. In 2014, more than 100 activists from nationalist groups, particularly from the Jeay Sindh Muttahida Mahaz (JSMM), an organization that has been banned, were arrested and are still missing.

10. Statistics by themselves showcase how extrajudicial killings, not investigation, due process, and fair trial, are the norm in Pakistan. Records show that, in Sindh Province, there were 3,392 encounters in 2014 as against 2,616 in 2013. In Karachi City, as many as 925 suspects were killed in shootouts and 160 personnel of police and Rangers fell in the line of duty in 2014. Khyber Pakhtunkhwa Province police killed 26 persons in encounters in 2014, while the Punjab Province police killed 276 suspected criminals and arrested 322 in 2014. A recent HRCP report provides a breakdown of the 52 killings in January 2015; it states that 43 people were killed in police encounters, while soldiers or paramilitary killed seven and security guards killed two.

11. In Pakistan, the conviction rate is dismal. On the other hand, there is a common perception that extrajudicial killings dampen down crime. A closer look at extrajudicial killings in Pakistan show such killings to be vengeance driven, meant to settle scores, rather than to maintain law and order.

12. Many police officers are known to have demanded ransom amounts to release detainees and have threatened family members that they will kill the detainee in a fake encounter if their demands are not met. In the case of Syed Faraz Alam, the family has reported that the police did not allow them to meet with him and demanded one million Pakistani Rupees as ransom. Corruption and State impunity are dominant factors behind extrajudicial killings in fake encounters. The State has given a free hand to law enforcers and this has resulted in such killings ballooning. According to Transparency International's Corruption Perception Index 2014, the police department in Pakistan is the most corrupt of all State departments.

13. The injustice meted out to the people of Pakistan in the name of maintenance of law and order is unacceptable, arbitrary, and unlawful by all standards of international treaties, and even by the Pakistan Constitution and local laws. The Universal Declaration of Human Rights, to which Pakistan is also a signatory, under Article 3 states, "Everyone has the right to life, liberty and security of person." Article 10 of the same states, "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him." ICCPR and other declarations forbid this gross human rights violation. Under Article 6 of ICCPR it is stated, "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life." Furthermore, under Article 6 of the Constitution of Pakistan, it is the responsibility of the State to protect its citizens from unlawful killings; the Article states, "No person shall be deprived of life or liberty save in accordance with law." However, all the relevant international instruments and laws are shown to be meaningless in the face of continuing extrajudicial killings.

14. Under the archaic sharia laws in Pakistan, the legal heirs of the deceased have the power to forgive the accused. It has been observed that in many cases of extrajudicial killings, the families come under the immense pressure to compromise with the agency that has committed the killing and are coerced and threatened to withdraw cases against officials. The officials thereby get away with murder and no inquiry is initiated; and, even if an enquiry is conducted into the matter, the culprit is never prosecuted. To save face, the Inspector General of Police generally transfers the officer to another jurisdiction; thus another cycle of extrajudicial killing ensues. The courts also give benefit of doubt to police officers in cases of extrajudicial killings. The victim's family members, who dare report the incident, are made to go from pillar to post to seek justice. As many are poor and can't afford the cost of litigation, the case most often ends in a compromise.

**Recommendations:**

15. Given the above, the Asian Legal Resource Center asks the Human Rights Council to:

a) Urge the Government of Pakistan to end all extrajudicial killings forthwith and establish an impartial judicial commission to investigate all such killings.

b) Ensure that the Government overhauls the criminal justice system and policing to improve accountability and bring about adherence to the rule of law in Pakistan. Judicial, legislative, and police reforms must comply with the inalienable human rights as enshrined in the universal declarations, treaties, and the Pakistan Constitution.

c) Ensure the Government places criminal actions of LEAs under the scope of judicial review; the Government must not give unbridled powers to LEAs. Proper accountability and checks and balances must be established to make the police and the other agencies fulfilling law enforcement functions uphold human rights of people in Pakistan.

d) Urge the Government to bring intelligence agencies and particularly military intelligence under civilian control, with their accounts audited by a public authority.